

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THE STATE OF MISSISSIPPI, *ex rel.*
LYNN FITCH, in her official capacity as
Attorney General of the State of
Mississippi,

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:20-CV-168-TBM-RPM

THE PEOPLE’S REP. OF CHINA, ET AL.

DEFENDANTS

**ORDER GRANTING MOTION TO CONTINUE AND CLOSING THE CASE FOR
STATISTICAL PURPOSES**

Before the Court is Plaintiff’s, the State of Mississippi, motion for extension of time to serve Defendants People’s Republic of China, People’s Government of Hubei Province, People’s Government of Wuhan City, National Health Commission of the People’s Republic of China, Ministry of Emergency Management of the People’s Republic of China, and the Ministry of Civil Affairs of the People’s Republic of China. Doc. [30]. This is Plaintiff’s fifth continuance. Plaintiff notes that the above Defendants are foreign entities with governmental functions according to the Foreign Sovereign Immunities Act (“FSIA”). Thus, these governmental Defendants are viewed as a “foreign state or [its] political subdivision” under the FSIA. 28 U.S.C. § 1603(a). Accordingly, they must be served pursuant to 28 U.S.C. § 1608(a). Plaintiff has been attempting service through diplomatic channels pursuant to § 1608(a)(4).

Plaintiff transmitted service-related documents to the U.S. Department of State on April 27, 2022. As of December 16, 2022, Plaintiff asserts that the Department of State “has initiated the process of serving the governmental Defendants via diplomatic channels.” Doc. [30], at 6. Plaintiff provides email correspondence with the U.S. Department of State indicating progress. In the email, the Department of State represents that “documents are still in transit to the U.S. Embassy, Beijing

. . . Once the documents have been transmitted, it normally takes several weeks before we physically receive proof of service in the form of the Embassy’s certified copy of the diplomatic note used to transmit the documents.” Doc. [30-1], at 1. The email was dated December 14, 2022. The requirements for serving a “foreign state or [its] political subdivision” are rigorous. *Howe v. Embassy of Italy*, 68 F. Supp. 3d 26, 32 (D.D.C. 2014). Plaintiff’s motion suggests it has been attempting service through diplomatic channels and Plaintiff simply needs additional time to effectuate service.

The Court grants Plaintiff an additional 30 days to serve process on the governmental Defendants. **By April 1, 2023**, Plaintiff must show that it has complied with 28 U.S.C. § 1608(a). Pursuant to § 1608(a)(4), after the documents have been transmitted through diplomatic channels, the Secretary of State must “send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.” 28 U.S.C. § 1608(a)(4). Although the FSIA provides no particular deadline for service, the Court is mindful that it has now granted five extensions to Plaintiff. On or before April 1, 2023, the certified copy of the diplomatic note must be filed in the record. It is Plaintiff’s burden to demonstrate that it has properly served the Defendants under the FSIA.

Based on the foregoing, the Court is of the opinion this case should be administratively closed for statistical purposes pending service of process through diplomatic channels. **Nothing contained in this Order shall be considered a dismissal or disposition of this matter.** The Court retains jurisdiction over the cause of action to allow either party to file a motion to reopen the case for further proceedings. Plaintiff may still file notices and certified copies of diplomatic notes to indicate it has effectuated service.

IT IS ORDERED AND ADJUDGED that this case is ADMINISTRATIVELY CLOSED until further order of the Court.

SO ORDERED AND ADJUDGED that Plaintiff's motion for extension of time to serve the governmental defendants is granted. Doc. [30]. **By April 1, 2023**, Plaintiff must show that it has complied with 28 U.S.C. § 1608(a).

SO ORDERED, this the 1st day of March 2023.

/s/ Robert P. Myers, Jr.
ROBERT P. MYERS, JR.
UNITED STATES MAGISTRATE JUDGE